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**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

RECEIVED**JUN 20 2019**

Cubico Palmetto Lessee, LLC

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Docket No. EG19-____-000

**PSC SC
MAIL / DMS**

**NOTICE OF SELF-CERTIFICATION OF
EXEMPT WHOLESALE GENERATOR STATUS**

Pursuant to section 1266 of the Public Utility Holding Company Act of 2005 (“PUHCA 2005”)¹ and section 366.7 of the regulations of the Federal Energy Regulatory Commission (“FERC” or “Commission”),² Cubico Palmetto Lessee, LLC (“Palmetto Lessee” or “Applicant”) hereby submits this notice of self-certification as an exempt wholesale generator (“EWG”), as defined in section 366.1 of the Commission’s regulations.³

I. COMMUNICATIONS

All service and correspondence concerning this Application should be sent to:

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II. DESCRIPTION OF PALMETTO LESSEE

Palmetto Lessee is a Delaware limited liability company engaged in the business of leasing and operating an approximately 75 MW (nameplate) solar photovoltaic generating facility and associated interconnection facilities located in Orangeburg County, South Carolina (“Facility”). The Facility is interconnected with the South Carolina Electric & Gas Company (“SCE&G”) balancing authority area (“BAA”). Palmetto Lessee’s affiliate, Palmetto Plains Solar Project, LLC

¹ Pub. L. No. 109-58, 119 Stat. 594, § 1266 (2005).

² 18 C.F.R. § 366.7.

³ 18 C.F.R. § 366.1.

(“Palmetto Plains”), and SCE&G are parties to a twenty-year wholesale power purchase agreement effective on May 10, 2017, pursuant to which SCE&G will purchase 100% of the electric energy, capacity, and ancillary services produced by the Facility. The Facility does not include (and the Applicant does not own, operate or control) any transmission facilities other than limited and discrete interconnection facilities needed to connect the Facility to SCE&G’s transmission system. The Applicant expects the Facility to begin generating test energy on or about June 18, 2019, and to reach commercial operation on or about June 30, 2019.

Palmetto Lessee has entered into a twenty-year lease of the Facility from Palmetto Plains pursuant to the terms of a master lease agreement. Palmetto Lessee will be responsible for the day-to-day operation and maintenance of the Facility and all associated costs and expenses. Although Palmetto Plains will retain the PPA, Palmetto Lessee will be responsible for power sales to SCE&G during the lease term and will become a “public utility” under the Federal Power Act and a “public-utility company” under PUHCA.⁴ Palmetto Plains and Palmetto Lessee have entered into an agreement whereby Palmetto Plains has assigned to Palmetto Lessee all of Palmetto Plains’ right, title and interest in and to all payments, receipts and revenues for power sales under the PPA. Palmetto Lessee, in turn, will make fixed and variable lease payments (payments that vary with the gross revenues of Palmetto Lessee) to Palmetto Plains during the term of the lease.

III. SELF CERTIFICATION OF EWG STATUS

The Commission’s regulations rely on the statutory definition, which specifies that an EWG is “any person engaged directly, or indirectly ... and exclusively in the business of owning or operating, or both owning and operating, all or part of one or more eligible facilities and selling

⁴ Palmetto Plains is making separate filings for EWG status and authorization to make wholesale power sales in compliance with the Federal Power Act.

electric energy at wholesale.”⁵ The statute further specifies that an eligible facility “includes interconnecting transmission facilities necessary to effect a sale of electric energy at wholesale” which also “shall include a facility the construction of which has not been commenced or completed.”⁶ Entities may self-certify their status as an EWG by demonstrating that they satisfy this definition.⁷

Palmetto Lessee makes the following representations in order to demonstrate that it meets the Commission’s definition of an EWG under Section 366.1 of the Commission’s regulations for its energy sales from the Facility.

- A. Palmetto Lessee is engaged directly and exclusively in the business of leasing and operating the Facility, and using the Facility exclusively to generate electric products for sale exclusively at wholesale. The Facility, as described above, will satisfy the definition of “Eligible Facilities” in Section 32(a)(2) of the Public Utility Holding Company Act of 1935, as incorporated by reference in 18 C.F.R. § 366.1, because it will be used for the generation of electric energy exclusively for sale at wholesale.
- B. The Facility includes no transmission or distribution facilities other than those interconnecting transmission facilities necessary to permit sales of electricity exclusively at wholesale.
- C. Applicant does not make sales of power at retail.
- D. No rate or charge for, or in connection with, the construction of the Facility, or for any electric energy produced thereby, was in effect under the laws of any state on October 24,

⁵ 18 C.F.R. § 366.1.

⁶ 15 U.S.C. § 79z-5a(a)(2); *see Katahdin Transmission, LLC*, 104 FERC ¶ 61,195 (2003) (granting EWG status to an entity that owned and leased a portion of interconnection facilities necessary to make wholesale power sales).

⁷ 18 C.F.R. § 366.7.

1992. As such, no determination of certification by any state commission is necessary prior to acceptance of this self-certification as an EWG.

- E. Other than Palmetto Plains, no portion of the Facility will be owned or operated by an electric utility company that is an affiliate or associate company of Applicant, as those terms are defined in Section 366.1 of the Commission's regulations.
- F. Other than the lease with Palmetto Plains, there are no lease arrangements involving the Facility and any public utility company or any affiliate or associate company of any public utility company.⁸

In accordance with Section 366.7(a) of the Commission's regulations, a copy of this notice of self-certification is being concurrently served upon the South Carolina Public Service Commission.

⁸ Such lease arrangements with a public-utility company and involving a facility used exclusively to generate electricity for sale exclusively at wholesale satisfy the "and selling" requirement for EWG status. *DTE Pontiac North LLC*, 121 FERC ¶ 61,037 at P 7 (2007).

IV. CONCLUSION

Based on the facts, representations, and statements set forth herein, Palmetto Lessee hereby requests that the Commission accept this self-certification of EWG status.

Respectfully Submitted,

/s/ Raymond B. Wuslich
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Attorney for
Cubico Palmetto Lessee, LLC

Dated: June 17, 2019

CERTIFICATE OF SERVICE

I, Raymond B. Wuslich, hereby certify that I have this day caused the foregoing Notice of Self-Certification of Exempt Wholesale Generator Status of Cubico Palmetto Lessee, LLC, to be served by first-class mail upon the South Carolina Public Service Commission.

Dated at Washington, D.C., this 17th day of June, 2019.

/s/ Raymond B. Wuslich
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